


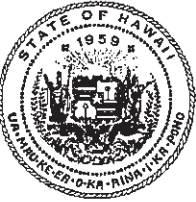
March 1, 2017

TO: ALL CONCERNED
FROM:  Nolan P. Espinda, Director
SUBJECT: **NEW POLICY – COR.16.11, RELEASE OF MISDEMEANANT
OFFENDERS AT COMMUNITY CORRECTIONAL CENTERS**

This is a new policy setting out the procedures for the Release of Misdemeanants (including petty misdemeanants, pretrial or sentenced) in accordance with *Hawaii Revised Statutes* § 353-36, Release of Misdemeanants to Prevent Overcrowding, Act 217, Session Laws of Hawaii 2016. It should be noted that this policy is only applicable to offenses subject to sentencing under HRS § 706-663, on or after July 1, 2016.

Based on the effective date of this policy, the Warden of the Community Correctional Center shall review all currently incarcerated misdemeanants (pretrial and sentenced) to determine if the misdemeanant qualifies for release based on HRS § 353-36 by March 10, 2017, inclusive of preparing the release packet for review and processing.

If you require any clarification, please contact Shelley Nobriga at 808-587-1260 or shelley.d.nobriga@hawaii.gov.

	DEPARTMENT OF PUBLIC SAFETY		EFFECTIVE DATE: March 1, 2017	POLICY NO.: COR.16.11
	CORRECTIONS ADMINISTRATION POLICY AND PROCEDURES		SUPERSEDES (Policy No. & Date): NEW	
	SUBJECT: RELEASE OF MISDEMEANANT OFFENDERS AT COMMUNITY CORRECTIONAL CENTERS			Page 1 of 9

1.0 PURPOSE

To establish guidelines granting the Director of the Department of Public Safety (PSD) the authority to release misdemeanor detainees/offenders when the Community Correctional Centers reach capacity as determined by the Director.

2.0 REFERENCES, DEFINITIONS, AND FORMS

.1 REFERENCES

- a. Hawaii Revised Statutes (HRS), Section 353-36, Release of Misdemeanants to prevent overcrowding, with a repeal date of July 1, 2020. Act 217, Session Law of Hawaii (2016).
- b. Hawaii Revised Statutes (HRS), Section 353C-2, Director of Public Safety, Powers and Duties.
- c. HRS, Section 26-14.6, Department of Public Safety.

.2 DEFINITIONS

- a. Community Correctional Centers (CCC): A PSD "jail" type of facility, such as Hawaii Community Correctional Center, Kauai Community Correctional Center, Maui Community Correctional Center, and Oahu Community Correctional Center, which manages misdemeanor detainees/offenders.
- b. Facility Capacity: The current facility capacities are found in the PSD Corrections Data Book as set by Corrections Population Management Commission.
- c. Intake Service Centers (ISC): Manages intake, bail reports, and supervision for individuals released pending trial and order by the Courts on the islands of Hawaii, Kauai, Maui and Oahu.
- d. Intake Service Center Division Administrator (ISCDA): Administrator of ISC Division.
- e. Intentional Violation: Means a willfully or purposely act and not accidentally.

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- f. Misdemeanant: As defined by HRS 353-36 is a person incarcerated at a community correctional center, who has been a) charged with a petty misdemeanor or misdemeanor, pursuant to HRS 706-663 or b) an incarcerated person who has been sentenced, pursuant to HRS 706-663. If subject to a different sentencing schedule, the offense is not considered to be pursuant to HRS 706-663. For example, sentences related to city ordinances do not fall under HRS 706-663.
- g. Previous Conviction: A prior conviction that resulted in a final decision with a formal finding of guilty (including DAGS, DANC etc.) which has not been officially expunged as defined by HRS.
- h. Serious Crime: As defined by HRS 804-3 means murder or attempted murder in the first degree, murder or attempted murder in the second degree, or a class "A or B" felony, except for forgery in the first degree and failing to render aid under section 291C-12.

.3 FORMS

- a. PSD 8296: Order Granting Pre-trial Release with 804-7.4 Terms and Conditions and/or 804.7.1 Special Terms and Conditions.
- b. PSD 8297: Order Granting Release on Recognizance for Sentenced Petty Misdemeanant or Misdemeanant pursuant to HRS 353-36.
- c. PSD 5012: Misdemeanant Screening and Data Collection Form.
- d. PSD IOM for Misdemeanant Release Packet.
- e. PSD Sample Notification Letter
- f. Sample Court Documents: Declaration of Pretrial Officer, Verified Application and Declaration, and Ex Parte Motion.

3.0 POLICY

- .1 The authority to release an offender on his/her own recognizance or on comparable supervised release, who is held exclusively on misdemeanor offenses (including petty misdemeanor, pre-trial, pending sentencing, or sentenced) based on HRS 706-663, shall be for the sole purpose of managing the population of the community correctional centers (CCC) and shall be initiated when the jail population at a CCC has reached capacity as determined by the Director of the Department of Public Safety.

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- .2 The Director shall consider the circumstances and nature of the misdemeanor's charge(s) or offense(s) prior to ordering a release based on this policy.
- .3 The Director's order shall supersede and have the same force and effect as an order entered by a court pursuant to HRS Chapter 804.
- .4 A misdemeanor released pursuant to HRS 353-36, shall be subject to:
 - a. Conditions set forth in HRS 804-7.4;
 - b. The Director may impose any additional conditions set forth in HRS 804-7.1; and
 - c. The Director shall impose any conditions contained in any court order that is superseded by the Director's order.
- .5 Any intentional violation(s) of the conditions of release shall be disposed of as provided in HRS 804-7.2 and 804-7.3.
- .6 The following order of priority should be implemented when a qualifying pretrial or sentenced misdemeanor is released pursuant to this policy:
 - a. Severity of the offense, where the least severe should be considered first;
 - b. Amount of bail for each class of offense, where the lowest should be considered first; and
 - c. Admission date, where the first admitted should be the first considered for release.
- .7 If there are no eligible candidates based on the criteria set forth in HRS 353-36, the safety of the community shall not be compromised by the release of a misdemeanor, who is ineligible in order to reach a desired capacity.
- .8 This policy and HRS 353-36 shall not be construed as granting any person the right to be released.
- .9 An order releasing a misdemeanor pursuant to this policy and HRS 353-36 shall not operate to dismiss or otherwise terminate any charges, then pending against the misdemeanor or any sentence being served.

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4.0 CRITERIA FOR RELEASE

- .1 Misdemeanants are ineligible for release under this policy, when “incarcerated” under any of the following circumstances:
 - a. Misdemeanant has been denied bail;
 - b. Misdemeanant’s bail has been set at more than \$5,000, pursuant to HRS Chapter 804;
 - c. Misdemeanant has been charged with or convicted of or is on probation or parole for a serious crime as defined by HRS 804-3. (See definition for a serious crime in Section 2.0.);
 - d. Misdemeanant has been arrested or convicted of the offense of abuse of family or household member, as defined in HRS 709-906; and/or
 - e. Other than the offense for which release pursuant to this policy or statute is contemplated, if the misdemeanorant has been previously convicted of any offense as defined in Title 37: Hawaii Penal Code Codification, that involves injury or threat of injury to the person of another, including but not limited to sexual harassment in the fourth degree, harassment by stalking, violation of an order of protection, or violation of a temporary restraining order.
- .2 The Director has designated the following additional discretionary criteria to evaluate the release of eligible misdemeanants on a case by case basis:
 - a. If applicable, the detainee’s/offender’s Ohio Risk Assessment System: Pretrial Assessment Tool (ORAS-PAT) score.
 - b. The detainee’s/offender’s classification level.
 - c. If applicable the mental health condition, if assessed as managed and under control as verified by a Qualified Mental Health Professional.
 - d. The detainee/offender indicates an address where the detainee/offender will reside upon release.
 - e. The detainee/offender has been assessed and revoked based on a release under HRS 353-36.

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- .3 The list of eligible candidates should be prioritized according Section 3.6 for the Director's review as recommended by ISC or the CCC Warden.

5.0 **RESPONSIBILITIES**

- .1 The ISCs and CCCs on Hawaii, Kauai, Maui, and Oahu shall:
- Manage and coordinate the implementation of this program with new intakes being assessed by the relevant ISC and status changes for misdemeanants remaining in custody being assessed by the relevant CCC.
 - ISC/CCC shall assess misdemeanants for release with the Misdemeanant Screening Form (PSD 5012). This form shall be utilized to screen and collect data for the annual report.
 - Prepare for the ISCDA's consideration and referral to the Director an assessment of all qualified misdemeanants by sending the release packet through the applicable ISC or CCC to the ISCDA.
 - For the detainees/offenders not eligible under Section 4.1, the screening form shall be distributed to the ISCDA for data collection and processing of the annual report.
- .2 New Misdemeanant Admissions
- ISC shall conduct the Misdemeanant Screening Form (PSD 5012) for any new admission/intake admitted with only misdemeanor type of offenses.
 - If eligible for release based on the Misdemeanant Screening Form (PSD 5012), ISC shall prepare and review with the misdemeanant the draft release order (PSD 8296 OR PSD 8297):
 - The order for release forthwith on their own recognizance (ROR) for sentenced misdemeanants, if applicable the terms and conditions of release and obtain their signature on PSD 8297.
 - The order for pre-trial or pending sentencing misdemeanants, the terms and conditions of release and obtain their signature on PSD 8296 (General Conditions and Special Conditions). These misdemeanants may be subject to terms and conditions comparable to supervised release.

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- 3) When ISC prepares the relevant draft order, ISC shall simultaneously notify the court, where the case is assigned and the county prosecuting attorney of PSD's intent to release the misdemeanor, no later than forty-eight (48) hours, prior to the actual release.
- 4) The notification to the relevant court or county prosecuting attorney shall be conducted via email, fax, or efilng with the confirmation sheet being submitted with the referral packet to the Director.
- c. The release packet consisting of the Misdemeanant Release IOM, draft type of release order, commitment and/or sentencing court documents, misdemeanor screening form, classification form, notification to court/judge and prosecutor, CJIS Rap Sheet, ORAS-PAT, residence information, medical or mental health clearance form, etc., shall be forwarded to the ISCDA for review and referral to the Director for signature.
- d. If approved by the Director as verified by his signature on the order, ISCDA will return the signed order to ISC to finalize the detainee/offender for release. The detainee/offender shall be provided a copy of the signed release order and a copy should be sent to the relevant court via email, fax or efilng.
- e. ISC shall ensure that the release notification timeline to the courts and prosecuting attorney is met, prior to the actual release of the detainee/offender.
- f. If the release packet is disapproved by the Director, then ISC shall retain documents to assist with statistics for the annual report.
- g. ISC shall monitor the pre-trial or pending sentencing misdemeanor for compliance with the specified terms and conditions of release.
 - 1) If while on supervision there is a status change, then ISC will be responsible to re-evaluate the release to determine if changes to the current release are warranted.
 - 2) If a misdemeanor while on release under this policy is sentenced to imprisonment, his/her release is terminated and he/she shall return to custody as ordered by the court.

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- h. If the sentenced misdemeanor is release forthwith based on ROR, then no further supervision by ISC or CCC is mandated; however, the Director has the option to add conditions of release.
- i. It shall be the sentenced misdemeanor's obligation to comply with the ROR specified conditions. If facts are received by ISC or CCC indicating that the misdemeanor has violated the conditions, then ISC shall prepare a Verified Application to Revoke ROR and forward to the relevant court through formal filing, email, fax, or efileing with a copy to ISCDA.
- j. It shall be the pretrial misdemeanor's obligation to comply with the specified conditions. In the event of a violation of the conditions of release, ISC shall complete a Verified Application to Revoke Release and forward to the relevant court through formal filing, email, fax, or efileing with a copy to ISCDA.

.3 Status Changes for Incarcerated Misdemeanants

- a. When a misdemeanor is not released based on the admission screening, then the Warden of the CCC or his/her assigned designee shall monitor the misdemeanor detainee/offender for any status changes, since the initial review and assessment by ISC.
- b. The CCC Warden is charged with the primary responsibility for re-evaluating any misdemeanor with a status change, such as but not limited to a change from pre-trial or pending sentencing to sentenced, or a reduction in bail based on the misdemeanor offense for example a reduction in bail from \$6,000 to \$2,000.
- c. If there is a change in status for the misdemeanor, the CCC staff shall complete the Misdemeanant Screening for Release Form (PSD 5012).
- d. If eligible for release based on the Misdemeanant Screening Form (PSD 5012), the CCC shall prepare and review with the misdemeanor the draft release order (PSD 8296 or PSD 8297):
 - 1) The order for release forthwith on their own recognizance (ROR) for sentenced misdemeanants, if applicable the terms and conditions of release and obtain their signature on PSD 8297. Any ROR release by CCC requiring supervision of misdemeanor shall be comparable to furlough.

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- 2) The order for pre-trial or pending sentencing misdemeanants by making a referral to ISC to prepare the terms and conditions of release, and ISC to obtain the misdemeanant's signature on PSD 8296. These misdemeanants may be subject to terms and conditions comparable to supervised release. ISC to process as indicated in Section 5.2.
- 3) When CCC prepares the relevant draft order, the CCC shall simultaneously notify the court, where the case is assigned and the county prosecuting attorney of PSD's intent to release the misdemeanant, no later than forty-eight (48) hours, prior to the actual release.
- 4) The notification to the relevant court or county prosecuting attorney shall be conducted via email, fax, or efilng with the confirmation sheet being submitted with the referral packet to the Director.
- e. CCC shall prioritize misdemeanants for release as dictated by this policy (Section 3.6). The relevant release order shall be forwarded to the ISCDA for review and referral to the Director for signature.
- f. The release packet consisting of the Misdemeanant Release IOM, draft type of release order, commitment and/or sentencing court documents, misdemeanant screening form, classification form, notification to court/judge and prosecutor, CJIS Rap Sheet, ORAS-PAT, residence information, medical or mental health clearance form, etc. shall be forwarded to the ISCDA for review and referral to the Director for signature.
- g. If approved by the Director as verified by his signature on the order, ISCDA will return the signed order to CCC to finalize the detainee/offender for release.
- h. CCC shall ensure that the release notification timeline to the appropriate court and prosecuting attorney is met, prior to the actual release of the detainee/offender.
- i. If the release packet is disapproved by the Director, then CCC shall retain documents to assist with statistics for the annual report.
- j. If the sentenced misdemeanant is release forthwith based on ROR, then no further supervision by ISC or CCC is mandated; however, the Director has the option to add conditions of release.

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- k. It shall be the sentenced misdemeanor's obligation to comply with the ROR specified conditions. If facts are received by ISC or CCC indicating that the misdemeanor has violated the conditions, then the CCC shall submitted a written report stipulating the facts to ISC to prepare a Verified Application to Revoke ROR and forward to the relevant court through formal filing, email, fax or efileing with a copy to ISCDA.
 - l. It shall be the pretrial misdemeanor's obligation to comply with the specified conditions. In the event of a violation of the conditions of release, ISC shall complete a Verified Application to Revoke Release by forwarding to the relevant court through formal filing, email, fax, or efileing with a copy to ISCDA.
 - m. The Verified Application will be processed by the Court as dictated by statute, court rules, and/or court procedures.
- .4 The annual report required by HRS 353-36 shall be prepared by the ISCDA. The distribution of the required documents to ISCDA shall be via email, unless this method is impracticable, then by fax or inter-office mail.

6.0 **SCOPE**

This policy and procedure shall apply to all misdemeanor detainees/offenders incarcerated at Community Correctional Centers throughout the State and the staff at the corresponding ISC or CCC. This policy is tentatively scheduled to be rescinded on July 1, 2020.

APPROVAL RECOMMENDED:

godie Masaka-Hirata
Deputy Director for Corrections

3/1/17

Date

APPROVED:

Jolan P. Espino
DIRECTOR

3/1/17

Date

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[§353-36] Release of misdemeanants to prevent overcrowding. [Section repealed July 1, 2020. L 2016, c 217, §8.] (a) Notwithstanding chapter 804 and any other law to the contrary and except as provided in subsection (b), the director may order the release of a misdemeanor on recognizance to prevent overcrowding when a community correctional center has reached capacity, as determined by the director. The director shall consider the circumstances and nature of the misdemeanor's charge or offense prior to ordering a release pursuant to this section. The director's order shall supersede and have the same force and effect as an order entered by a court pursuant to chapter 804. For purposes of this section and section 353-37, "misdemeanant" means a person incarcerated at a community correctional center who has been charged with a petty misdemeanor or misdemeanor, or an incarcerated person who has been sentenced pursuant to section 706-663.

(b) No person who is incarcerated under any of the following circumstances shall be eligible for release pursuant to this section:

- (1) The person has been denied bail or whose bail has been set at more than \$5,000 pursuant to chapter 804;
- (2) The person is charged with or convicted of or is on probation or parole for a serious crime, as defined in section 804-3;
- (3) The person has been arrested or convicted for abuse of family or household members, as defined in section 709-906; or
- (4) Other than the offense for which release is contemplated under this section, the person has been previously convicted of any offense, as defined in title 37, that involves injury or threat of injury to the person of another, including but not limited to sexual harassment in the fourth degree, harassment by stalking, violation of an order of protection, or violation of a temporary restraining order.

(c) The authority to release a misdemeanor pursuant to this section is granted solely for the purpose of managing the population of the community correctional centers. Nothing in this section shall be construed as granting any person the right to be released. An order releasing a misdemeanor pursuant to this section shall not operate to dismiss or otherwise terminate any charges then pending against the misdemeanorant.

(d) The director shall notify the court where the case is assigned and the prosecuting attorney of the release of any misdemeanor pursuant to this section not later than forty-eight hours prior to the time of the actual release.

(e) The State or any of its officers and employees shall not be subject to any civil liability or penalty nor to any criminal prosecution for any error in judgment or discretion made in good faith and upon reasonable grounds in any action taken or omitted by the State or any of its officers and employees acting in their official capacity pursuant to this section.

(f) The director shall adopt policies and procedures for the release of misdemeanants pursuant to this section. [L 2016, c 217, pt of §1]

Note

Section applies only to persons charged with offenses subject to sentencing in §706-663, on or after July 1, 2016. L 2016, c 217, §4.

**DEPARTMENT OF PUBLIC SAFETY
MISDEMEANANT SCREENING FOR RELEASE**
(ACT 217, SUNSETS 7/1/20)

I. IDENTIFYING DATA

ADMIT DATE: _____ SID #: _____ FACILITY: _____ CUSTODY STATUS: _____

NAME: _____ SEX: _____
LAST FIRST MI

THE OFFENDER 1) IS BEING HELD BY PSD FOR UNRELATED CHARGES OR SENTENCE OTHER THAN A MISDEMEANOR OR PETTY MISDEMEANOR, 2) IS SERVING A SENTENCE (NON-M/PM), OR 3) HAS A DETAINER OR HOLD? ☐ YES ☐ NO If yes, **STOP. NO DISTRIBUTION IS REQUIRED.**

MISDEMEANANT (M OR PM) CHARGE(S) AS LISTED ON ADMISSION DOCUMENTS OR OFFENDERTRAK:

II.	MISDEMEANANT EVALUATION	YES/NO	COMMENTS
1.	Current Offense is limited to Misdemeanor or Petty Misdemeanor pursuant to HRS 706-663.		
2.	Based on HRS 804 for current offense, Offender has not been denied bail or bail is \$5000 or less. If sentenced only, enter YES/NA. If no bail issued (HRS 704) for pretrial, enter NO/NB.		
3.	Offender has not been charged or convicted or is not on probation or parole of a Serious Crime (HRS 804-3). Consider DAGS/DANC, unless officially expunged on CJIS.		
4.	Offender has not been arrested or convicted of Abuse of a Family or Household Member (HRS 709-906).		
5.	Offender has not previously been convicted of an offense as defined by Title 37(Hawaii Penal Code) involving injury or threat of injury to another person, including but not limited to, Sexual Harassment 4 th and Harassment by Stalking.		
6.	Offender has not previously been convicted of violating a TRO and/or Protective Order.		

III. MISDEMEANANT SCORING:

- ☐ If 1-6 is YES, then continue to Director discretionary criteria and prepare documents for Manager's/Warden's evaluation for release to be forwarded to the Director.
- ☐ If a NO response to 1-6, then **STOP** and maintain form for statistical data and annual report. **THE DISTRIBUTION IS ONLY TO ISCDA.**

IV.	DISCRETIONARY CRITERIA FOR PSD DIRECTOR	YES/NO	COMMENTS
1.	If applicable (pretrial) ORAS-PAT score is Moderate or Low, then enter the date of ORAS-PAT in the comments column. If not pretrial enter NA. If ORAS-PAT ineligible or no recommendation enter NO.		
2.	Classification is Med, Min or Com. Enter level in comments.		
3.	If applicable, Mental health condition is managed and under control. Refer to Qualified Mental Health Professional for evaluation. Indicate date of medical/mental health clearance form. If not applicable, enter NA.		
4.	Indicates an address where misdemeanor will reside upon release. Indicate residence information in comments, including State, private or community resources for residence options.		
5.	Has the Misdemeanant previously been assessed and revoked based on a release under HRS 353-36. Enter date and outcome of court hearing.		

ADDITIONAL INFORMATION:

SECTION I-IV COMPLETED BY: PRINT NAME/TITLE	SIGNATURE, DATE, & TIME OF STAFF (SECTION I-IV): DATE/TIME: /
--	--

Distribution: ISC MANAGER, CCC WARDEN, ISCDA
PSD 5012 (3/1/17)

February 24, 2017

TO: Nolan P. Espinda, Director

THROUGH: Shelley Nobriga, ISCDA

FROM: [WARDEN OR ISC MANAGER]

SUBJECT: MISDEMEANANT RELEASE PACKET FOR [NAME/ALPHA]

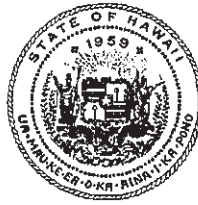
The above misdemeanor is being referred for possible release based on HRS Section 353-36. I hereby certify that based on HRS Section 353-36 and PSD COR.16.11, the above misdemeanor meets the requirements for release subject to the review and approval by the Director. The following documents are attached:

- ☐ RELEVANT COURT DOCUMENTS RELATED TO THE MISDEMEANANT'S OFFENSE.

- ☐ MISDEMEANANT SCREENING TOOL
- ☐ CLASSIFICATION SCREENING FORM
- ☐ NOTIFICATION SENT TO RELEVANT COURT/JUDGE AND PROSECUTOR
- ☐ CJIS RAP SHEET
- ☐ IF APPLICABLE, ORAS-PAT SCREENING
- ☐ RESIDENCE DOCUMENTATION
- ☐ MEDICAL/MENTAL HEALTH PROFESSIONAL CLEARANCE FORM
- ☐ SIGNED DRAFT OF PSD 8296 OR PSD 8297
- ☐ OTHER DOCUMENTATION:

If you have any questions, please contact [NAME/PHONE #].

DAVID Y. IGE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY

919 Ala Moana Boulevard, 4th Floor
Honolulu, Hawaii 96814

NOLAN P. ESPINDA
DIRECTOR

Cathy Ross
Deputy Director
Administration

Jodie F. Maesaka-Hirata
Deputy Director
Corrections

Renee R. Sonobe Hong
Deputy Director
Law Enforcement

No. SAMPLE NOTIFICATION

March 1, 2017

JUDGE
COURT
ADDRESS
ADDRESS

PROSECUTOR
DEPARTMENT
ADDRESS
ADDRESS

Dear Honorable Judge [NAME] and Prosecutor [NAME]:

RE: FORTY-EIGHT (48) HOUR NOTIFICATION OF THE POSSIBLE
RELEASE BY THE DIRECTOR OF PSD, PURSUANT TO HRS
SECTION 353-36

In compliance with Hawaii Revised Statutes (HRS), Section 353-36, we are notifying you that the offender(s) under the jurisdiction of the Department of Public Safety (PSD) listed below is/are being consider for release as set forth in HRS Section 353-36, pursuant to the authority of the PSD Director. The mandated forty-eight (48) notice shall begin with the date of this letter and notification may be via mail, email, fax or court efileing on the above date.

OFFENDER NAME	SSN (Last 4)	SID	CR# AND OFFENSE

If you have any questions, please contact the Intake Service Center Division Administrator, Ms. Shelley Nobriga at (808) 587-1262.

Sincerely,

[NAME]
WARDEN OR ISC MANANGER

**STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY**

STATE OF HAWAII)	
)	
)	CR. NO.:
VS.)	
)	CHARGE:
)	
)	
NAME)	ORDER GRANTING RELEASE AND
)	ESTABLISHING GENERAL AND
DEFENDANT.)	SPECIAL TERMS AND CONDITIONS
)	OF RELEASE
)	
_____)	

**ORDER GRANTING RELEASE AND ESTABLISHING GENERAL
AND SPECIAL TERMS AND CONDITIONS OF RELEASE**

In accordance with Hawaii Revised Statutes (HRS) 353-36 (2016), it is hereby ordered that bail in the above entitled matter be and same is hereby set aside and the inmate is RELEASED subject to the following general, special, and/or court ordered terms and conditions of release.

IT IS ORDERED THAT, pursuant to Section 804-7.4, HRS, you shall during your release, comply with the following terms and conditions:

1. You shall not commit a federal, state or local offense during the period of release;
2. You shall appear for all court hearings, unless notified by your attorney that your appearance is not required; and
3. You shall remain in the State of Hawaii, unless approval is obtained from a court of competent jurisdiction to leave the jurisdiction of the court.

IT IS FURTHER ORDERED THAT, pursuant to Section 804-7.1, HRS, you shall during your release, comply with the following special terms and conditions:

1. You are required to report to the [ISLAND] Intake Service Center and your assign Pretrial Officer as directed;

2. You are prohibited from possessing and/or consuming any alcohol and/or drugs, and are required to submit to testing at your expense, at the discretion of your Pretrial Officer of [ISLAND] Intake Service Center;

3. At the discretion of your Pretrial Officer, you may be required to seek and maintain substance abuse treatment at your expense, until clinically discharged;

Initial _____ [] You are prohibited from approaching or communicating with [PERSON OR CLASS OF PERSONS], except that no such order should be deemed to prohibit any lawful and ethical activity of Defendant's counsel;

Initial _____ [] You are prohibited from going to [GEOGRAPHICAL AREA OR PREMISES];

Initial _____ [] You are prohibited from possessing any firearm, dangerous weapon, engaging in [DESCRIBE ACTIVITIES], or indulging in intoxicating liquors or illegal unprescribed drugs;

Initial _____ [] You are required to maintain employment, or, if unemployed, to actively seek employment, or attend an educational or vocational institution;

Initial _____ [] You are required to comply with the specified curfew [DEFINE];

Initial _____ [] You are required to seek and maintain mental health treatment or testing, including taking all prescribed medication and treatment for drug or alcohol dependency, or to remain in [SPECIFIED INSTITUTION] for said purpose;

Initial _____ [] You shall remain in the jurisdiction of the judicial circuit in which the charges are pending unless approval is obtained from a court of competent jurisdiction to leave the jurisdiction of the court;

Initial _____ [] You are required to satisfy any other condition reasonably necessary to assure the appearance of the person as required and to assure the safety of any other person or community; or

Initial _____ [] [OTHER COURT ORDERED CONDITIONS].

You are advised that in accordance with HRS Section 353-36 and HRS Sections 804-7.2 and 804-7.3, your failure to comply with the foregoing Terms and Conditions shall result in the Department of Public Safety filing a formal action with the appropriate Court, which may result in the issuance of a bench warrant for your arrest.

DATED: _____ Honolulu, Hawaii

NOLAN P. ESPINDA, DIRECTOR
Department of Public Safety

ACKNOWLEDGMENT OF DEFENDANT

I, _____, fully understand and agree to the foregoing General and Special Terms and Conditions of Release. I understand that in the event I violate any of the conditions of release, the Department of Public Safety as provided in Chapter 804 and HRS Section 353-36, may file an application with the Court and a bench warrant for my arrest may be ordered by the Court. I am also aware that intentional failure to appear at such times as directed by the Court is punishable as a separate crime.

NEXT COURT DATE:

OFFENDER'S NAME & SIGNATURE DATE

DEFENDANT ADDRESS &
PHONE:

WITNESSED:

[Island] Intake Service Center Staff DATE
Department of Public Safety
ADDRESS
ADDRESS
PHONE:

**STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY**

STATE OF HAWAII)	
)	
)	CR. NO.:
VS.)	
)	CHARGE:
)	
)	
NAME)	
)	
DEFENDANT.)	ORDER GRANTING RELEASE
)	FORTHWITH ON RECOGNIZANCE
_____)	

ORDER GRANTING RELEASE FORTHWITH ON RECOGNIZANCE

In accordance with Hawaii Revised Statutes (HRS), Section 353-36 (2016), it is hereby ordered that Defendant [NAME] sentenced in the above entitled matter by the Honorable [NAME], Judge of the [CIRCUIT AND DIVISION], shall have the referenced sentence set aside is RELEASED FORTHWITH ON RECOGNIZANCE TO EXPIRE ON [DATE OF SENTENCE EXPIRATION AFTER APPLYING CREDITS], subject to the general, special, and/or court ordered terms and conditions of release.

IT IS ORDERED THAT, pursuant to Section 804-7.4, HRS, you shall during your release, comply with the following terms and conditions:

1. You shall not commit a federal, state or local offense during the period of release;
2. You shall appear for all court hearings, unless notified by your attorney that your appearance is not required; and
3. You shall remain in the State of Hawaii, unless approval is obtained from a court of competent jurisdiction to leave the jurisdiction of the court.

IT IS FURTHER ORDERED THAT, pursuant to Section 804-7.1, HRS, you shall during your release, comply with the following special terms and conditions:

Initial _____ [] You are required to report to the [ISLAND] Intake Service Center and your assign Pretrial Officer as directed;

Initial _____ [] You are prohibited from possessing and/or consuming any alcohol and/or drugs, and are required to submit to testing at your expense, at the discretion of your Pretrial Officer of [ISLAND] Intake Service Center;

Initial _____ [] At the discretion of your Pretrial Officer, you may be required to seek and maintain substance abuse treatment at your expense, until clinically discharged;

Initial _____ [] You are prohibited from approaching or communicating with [PERSON OR CLASS OF PERSONS], except that no such order should be deemed to prohibit any lawful and ethical activity of Defendant's counsel;

Initial _____ [] You are prohibited from going to [GEOGRAPHICAL AREA OR PREMISES];

Initial _____ [] You are prohibited from possessing any firearms, dangerous weapon, engaging in [DESCRIBE ACTIVITIES], or indulging in intoxicating liquors or illegal unprescribed drugs;

Initial _____ [] You are required to maintain employment, or, if unemployed, to actively seek employment, or attend an educational or vocational institution;

Initial _____ [] You are required to comply with the specified curfew [DEFINE];

Initial _____ [] You are required to seek and maintain mental health treatment or testing, including taking all prescribed medications, treatment for drug or alcohol dependency, or to remain in [SPECIFIED INSTITUTION] for said purpose;

Initial _____ [] You shall remain in the jurisdiction of the judicial circuit in which you were convicted, unless approval is obtained from a court of competent jurisdiction to leave the jurisdiction of the court;

Initial _____ [] You are required to satisfy any other condition reasonably necessary to assure the appearance of the person as required and to assure the safety of any other person or community; or

Initial _____ [] [OTHER COURT ORDERED CONDITIONS].

You are advised that in accordance with HRS Section 353-36 and HRS Sections 804-7.2 and 804-7.3, your failure to comply with the foregoing Terms and Conditions shall result in the Department of Public Safety filing a formal action with the appropriate Court, which may result in the issuance of a bench warrant for your arrest.

DATED: _____ Honolulu, Hawaii

NOLAN P. ESPINDA, DIRECTOR
Department of Public Safety

ACKNOWLEDGMENT OF DEFENDANT

I, _____, fully understand and agree to the foregoing General and Special Terms and Conditions of Release. I understand that in the event I violate any of the conditions of release, the Department of Public Safety as provided in Chapter 804 and Section HRS 353-36, may file an application with the Court and a bench warrant for my arrest may be ordered by the Court. I am also aware that intentional failure to appear at such times as directed by the Court is punishable as a separate crime.

OFFENDER'S NAME & SIGNATURE DATE

DEFENDANT ADDRESS &
PHONE:

WITNESSED:

[Island] Intake Service Center Staff DATE
[Island] Community Correctional Center Staff
Department of Public Safety
ADDRESS
ADDRESS
PHONE:

TITLE 37 HAWAII PENAL CODE OFFENSES RELATED TO
A CRIME OF VIOLENCE INVOLVING INJURY OR THREAT OF INJURY TO ANOTHER PERSON (HRS 353-36)

707-701 Murder in the first degree 707-701.5 Murder in the second degree 707-702 Manslaughter 707-702.5 Negligent homicide in the first degree 707-703 Negligent homicide in the second degree 707-704 Negligent homicide in the third degree 707-705 Negligent injury in the first degree 707-706 Negligent injury in the second degree	707-710 Assault in the first degree 707-711 Assault in the second degree 707-712 Assault in the third degree 707-712.5 Assault against a law enforcement officer in the first degree 707-712.6 Assault against a law enforcement officer in the second degree 707-712.7 Assault against an emergency worker 707-713 Reckless endangering in the first degree 707-714 Reckless endangering in the second degree 707-716 Terroristic threatening in the first degree 707-717 Terroristic threatening in the second degree 707-730 Sexual assault in the first degree 707-731 Sexual assault in the second degree 707-732 Sexual assault in the third degree 707-733 Sexual assault in the fourth degree 707-733.6 Continuous sexual assault of a minor under the age of fourteen years
707-720 Kidnapping 707-721 Unlawful imprisonment in the first degree 707-722 Unlawful imprisonment in the second degree	707-761 Extortionate extension of credit; prima facie evidence 707-762 Financing extortionate extensions of credit 707-763 Collection of extensions of credit by extortionate means 707-764 Extortion 707-765 Extortion in the first degree 707-766 Extortion in the second degree 707-767 Extortion in the third degree 707-768 Firearms, explosives, and dangerous weapons
707-750 Promoting child abuse in the first degree 707-751 Promoting child abuse in the second degree 707-752 Promoting child abuse in the third degree 707-756 Electronic enticement of a child in the first degree 707-757 Electronic enticement of a child in the second degree 707-759 Indecent electronic display to a child	708-820 Criminal property damage in the first degree 708-840 Robbery in the first degree 708-841 Robbery in the second degree 708-8251 Arson in the first degree 708-8252 Arson in the second degree 708-8253 Arson in the third degree 708-8254 Arson in the fourth degree
709-903.5 Endangering the welfare of a minor in the first degree 709-904 Endangering the welfare of a minor in the second degree 709-905 Endangering the welfare of an incompetent person 709-906 Abuse of family or household members; penalty	710-1020 Escape in the first degree 710-1026 Resisting arrest 710-1031 Intimidating a correctional worker 710-1071 Intimidating a witness 710-1074 Intimidating a juror 710-1075.5 Retaliating against a juror
711-1103 Riot 711-1106 Harassment 711-1106.4 Aggravated harassment by stalking 711-1106.5 Harassment by stalking 711-1112 Interference with the operator of a public transit vehicle	712-1202 Sex trafficking 712-1203 Promoting prostitution

SAMPLE COURT DOCUMENTS

[ISLAND] INTAKE SERVICE CENTER
STATE OF HAWAII
ADDRESS
ADDRESS
TELEPHONE:

IN THE CIRCUIT COURT OF THE [RELEVANT] CIRCUIT

STATE OF HAWAII

STATE OF HAWAII
VS.

) CR. NO.:

CHARGE(S):

Defendant

DECLARATION OF PRETRIAL
OFFICER

DECLARATION OF PRETRIAL OFFICER

I, _____, Pretrial Office declares:

1. That he/she is an [ISLAND] Intake Service Center Pretrial Officer of the above-entitled Court and for the defendant;
2. That on the ____ day of _____ 2017, the defendant having been granted **(type of release)** to _____, by Nolan P. Espinda, the Director of the Department of Public Safety, of the crime(s) set forth above, upon conditions, however, that the

defendant comply with all the Terms and Conditions of (type of release).

3. That the defendant was released from the [FACILITY] Community Correctional Center (FACILITY) on the ____ day of ____ 2017.

4. That the terms and conditions of release were reviewed with Defendant on the ____ day of ____ 2017, and a copy was given to Defendant.

5. That Defendant, in the City and County of Honolulu [RELEVANT COUNTY], State of Hawaii, while the terms and conditions of release were still in effect, violated the terms and conditions of release as follows:

- a) That according to Diagnostic Laboratory Services /BioTech Screening Cup, the urine sample the defendant provided on the ____ day of ____ 2017, tested positive for _____.
- b) That on the ____ day of ____ 2017, the undersigned instructed the defendant to submit to a urinalysis test that day; subsequently the defendant refused to submit to urinalysis /failed to submit to urinalysis within two hours of instruction on that day.
- c) That the defendant admitted to the undersigned to using _____ on the ____ day of ____ 2017.
- d) That on the ____ day of ____ 2017 the undersigned directed the Defendant to obtain a substance abuse assessment; subsequently, the defendant failed to provide verification of obtaining a substance abuse assessment.
- e) That the defendant failed to report to the [ISLAND] Intake Service Center (ISC) as directed on _____.

- f) That the defendant failed to report to the [ISLAND] Intake Service Center (ISC) and his/her whereabouts are unknown.
- g) That on the _____ day of _____ 2017 the undersigned directed the Defendant to obtain a mental health assessment; subsequently, the defendant failed to provide verification of obtaining a mental health assessment.
- h) That on the _____ day of _____ 2017 the undersigned instructed the defendant not to have any contact with the victim or any other party significantly related to the victim; subsequently, that on the ____ day of _____ 2017. **(Source of info)** informed the undersigned that the defendant had contact with the victim on the _____ of _____ 2017.
- i) That according to **(name/title)** the defendant was terminated from **(name of provider)** on the _____ day of _____ 2017.
- j) That according to **(source of info)** the defendant was arrested on the _____ day of _____ 2017 for **(charge and HPD number)**. Further, according to **(Source of info)**, the defendant appeared before the Honorable **(name of Judge)** for **(name of hearing)**; where bail was set at **(bail amount)**; subsequently, according to [FACILITY] Community Correctional Center records, the defendant entered into custody on the _____ day of _____ 2017, in lieu of **(Bail amount)** bail;
- k) That according to daily computerized reports from Sentinel, the defendant between the _____ of _____ 2017 and the _____ of _____ 2017, incurred curfew violations ranging from _____ to _____.

- l) That according to daily computerized reports from Sentinel the defendant incurred a curfew violation of _____ on the _____ day of _____ 2017;
- m) That according to daily computerized reports from Sentinel the defendant left his/her residence on the _____ of _____ 2017 and has failed to return.
- n) That on the _____ day of _____ 2017, the undersigned instructed the defendant not to enter or be in the vicinity of **(Address of prohibited area)**; further, according to daily computerized reports from Sentinel the defendant entered the prohibited area for **(length of violation)** on the _____ day of _____, 2017.
- o) That according to _____ the defendant left his/her residence on the _____ day of _____ 2017, and has not returned; subsequently _____ is no longer willing to act as the defendant's Sponsor or provide a residence;
- p) That on the _____ day of _____ 2017, the undersigned instructed the defendant to obtain/attend **(type of service/directive)** and to provide the undersigned written verification of obtaining/attending **(type of service/directive)**; subsequently, the defendant failed to provide verification of obtaining/attending **(type of service/directive)** as directed.
- q) Other:

6. On the basis of these aforementioned violations of **(type of release)**, the [ISLAND] Intake Service Center (ISC) requests that a Verified Application to Revoke the

defendant's **(type of release)** be considered or in the alternative, that a hearing be held to address the above-noted violations.

7. I declare under penalty of law that the foregoing is true and correct to the best of my knowledge and belief.

DATED: [RELEVANT COUNTY], Hawaii,_____.

[NAME]
Pretrial Officer
[ISLAND] Intake Service Center

Approved by:

[SUPERVISOR]
Program Services Unit
Supervisor

[ISLAND] INTAKE SERVICE CENTER
STATE OF HAWAII
ADDRESS
ADDRESS
TELEPHONE:

IN THE CIRCUIT COURT OF THE [RELEVANT] CIRCUIT

STATE OF HAWAII

STATE OF HAWAII

VS.

Defendant.

) CR. NO.:

CHARGE(S):

VERIFIED APPLICATION TO REVOKE
SUPERVISED RELEASE; AND
DECLARATION OF PRETRIAL
OFFICER

VERIFIED APPLICATION TO
REVOKE SUPERVISED RELEASE

Comes now, _____ Pretrial Officer of the
Oahu Intake Service Center, and pursuant to Hawaii Revised Statutes Section 804-7,
2(b), hereby submits to this Court an application to revoke the release of the above-
named Defendant. That the Defendant violated the conditions of release on bail,
recognizance, or supervised release as indicated in the attached Affidavit
of _____.

[NAME]
Pretrial Officer
[ISLAND] Intake Service Center

[ISLAND] INTAKE SERVICE CENTER
STATE OF HAWAII
ADDRESS
ADDRESS
TELEPHONE:

IN THE CIRCUIT COURT OF THE [RELEVANT] CIRCUIT

STATE OF HAWAII

STATE OF HAWAII

VS.

) CR. NO.:

) CHARGE(S):

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DECLARATION of PRETRIAL OFFICER

Defendant.

DECLARATION OF PRETRIAL OFFICER

I, Pretrial Officer _____, declare:

1. That he/she is an [ISLAND] Intake Service Center Pretrial Officer of the above-entitled Court and for the defendant;

2. That on the _____ day of _____ 2017, the defendant having been granted Supervised Release to _____, by the Honorable _____, Judge of the _____ Division, of the crime(s) set forth above, upon conditions, however, that the defendant comply with all the Terms and Conditions of Supervised Release, some of which include:

a. The defendant is required to report to the [ISLAND] Intake Service Center (ISC) as directed;

b. The defendant is required to abide by the following curfew: _____ p.m. to _____ a.m. unless otherwise authorized by the [ISLAND] Intake Service Center;

c. The defendant is prohibited from consuming and/or possessing any alcoholic beverages and/or illicit drugs or substances; and is required at his/her own expense, to submit to drug/alcohol testing at the discretion of the Intake Service Center;

d. The defendant is required to maintain substance abuse treatment, at his/her own expense, until clinically discharged;

e. The defendant is required to submit _____ to _____;

3. That the defendant was released from the [FACILITY] Community Correctional Center (OCCC) on the _____ day of _____ 2017;

4. That on the _____ day of _____ 2017, the undersigned received information from _____, stating that the defendant left the program without permission on the _____ day of _____ 2017, and has not returned to the facility since;

5. That on the day of 2017, the undersigned received information from
, stating that the defendant has not maintained treatment as ordered;

6. That on the day of 2017, the undersigned received information from Adult
Correctional Officer that the defendant's urine specimen(s), submitted on , was
tested positive for ;

7. That the defendant has failed to report to the Oahu Intake Service Center since the
day of 2017;

8. That on the day of 2017, Deputy Public Defender/Defense Counsel
was apprised of the situation regarding the violations of the terms and conditions of the
defendant's Release under Criminal Number ;

9. That as of this writing, the defendant's whereabouts is unknown;

10. That the defendant is presently scheduled for in Criminal Number, before
the Honorable on the day of 2017;

11. On the basis of these aforementioned violations of , the [ISLAND] Intake
Service Center requests that a Verified Application to Revoke the defendant's be
considered or that a hearing be held to address the above-noted violations.

12. I declare under penalty of law that the foregoing is true and correct to the best of
my knowledge and belief.

DATED: Honolulu, Hawaii,_____.

[NAME]
Pretrial Officer
[ISLAND] Intake Service Center

Approved by:

[NAME]

Program Services Unit
Supervisor

VERIFIEDAPPLICATION.DOC

[ISLAND] INTAKE SERVICE CENTER
[ADDRESS]
[ADDRESS]
[TELEPHONE]

IN THE CIRCUIT COURT OF THE [JURISDICTION] CIRCUIT

STATE OF HAWAII

STATE OF HAWAII

VS.

) CR. NO.:

)

) CHARGE(S):

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) EX-PARTE MOTION TO TEMPORARILY
) SEAL DECLARATION OF PRETRIAL
) OFFICER;

)

Defendant.

EX-PARTE MOTION TO TEMPORARILY SEAL
DECLARATION OF PRETRIAL OFFICER

, Movant, Moves this Court, pursuant to Circuit Court of the [JURISDICTION] Circuit, Hawaii Court Records Rules 3.3 for an order Temporarily Sealing the Declaration of Pretrial Officer.

In support of this motion, Movant States as follows: The Declaration of Pretrial Officer contains the following confidential information:

- ☐ Substance Abuse Treatment Information
- ☐ Medical Treatment Information
- ☐ Mental Health Treatment Information
- ☐ Drug Testing Information
- ☐ Victim Information
- ☐ Other:

I declare under penalty of perjury, that the foregoing is true and correct.

Dated at Honolulu, Hawaii: _____

[ISLAND] Intake Service Center
Pretrial Officer

ORDER

- ☐ This ex Parte motion is DENIED
- ☐ This Ex Parte Motion is APPROVED AND SO ORDERED

Dated: _____

Judge of the above-entitled Court